



## Special Counsel for Enhancing Juvenile Indigent Defense

### The John D. and Catherine T. MacArthur Foundation's Models for Change Initiative

The MacArthur Foundation launched the Models for Change (MfC) initiative in Washington in an effort to create successful and replicable models of juvenile justice reform through targeted investments. Washington was selected as one of the four Models for Change states in recognition of its commitment to and support of juvenile justice system reforms incorporating evidence-based practices. The Models for Change initiative seeks to accelerate movement toward a more rational, fair, effective, and developmentally appropriate juvenile justice system. The Models for Change Initiative imparts the following vision for the Juvenile Justice System:

*"A model system would safeguard the procedural and substantive rights of all youth who come into conflict with the law. Meaningful access to legal counsel would be available as soon as possible after a youth's arrest, and comprehensive representation would continue until the youth's case was closed. Defense attorneys would have limited caseloads and adequate training and oversight, as well as access to investigators, experts, social workers, and support staff. Their compensation would be adequate, and they would work in an environment that encouraged and supported their responsibilities to their young clients." See [www.modelsforchange.net](http://www.modelsforchange.net)*

### TeamChild Awarded Grant for a Special Counsel to Enhance Juvenile Indigent Defense

The MacArthur Foundation awarded TeamChild a grant to create a Special Counsel position to assist in statewide efforts to enhance juvenile defense in Washington. TeamChild's advocacy model grew out of the need identified by public defenders for holistic legal representation aimed at addressing the underlying causes of juvenile delinquency. In partnership with defenders, TeamChild brings the perspective of youth who need legal advocacy not only in juvenile court but also in securing the education, health care, housing and other community support they need to achieve positive outcomes in their lives. TeamChild and the Special Counsel work with the juvenile defense community on activities to increase the access to counsel and:

- Improve juvenile defender's access to training, mentoring and technical assistance;
- Coordinate and build models of high quality holistic defense practices, and
- Increase juvenile defender's leadership and participation in system reform efforts.

### TeamChild Named State Site Leader for Juvenile Indigent Defense Action Network

In the fall of 2008 the MacArthur Foundation through the National Juvenile Defender Center awarded TeamChild a planning grant to participate in a national campaign to improve access to and quality of counsel representing youth in delinquency proceedings. The JIDAN goals are:

- Develop model juvenile defense contracts incorporating best practice standards
- Develop model colloquies for judges to better explain court requirements to offenders
- Establish an initial appearance demonstration project in Yakima County

**Offices in King ♦ Pierce ♦ Snohomish ♦ Spokane ♦ Yakima Counties**

1225 South Weller, Suite 420, Seattle, WA 98144 ♦ Phone (206) 322-2444 ♦ Fax (206) 381-1742 ♦ [www.teamchild.org](http://www.teamchild.org)



## **Special Counsel Activities and Updates**

### **Development of Statewide Training Resources**

The TeamChild Special Counsel works with the juvenile defense community to identify training needs of attorneys handling juvenile cases. This process informed the development of a progressive training curriculum that builds basic to advanced practice skills for juvenile defenders. Defenders are helping to identify the specific resource materials and manuals that would assist juvenile defense attorneys in all aspects of their practice, including pretrial investigation, discovery and motions, case negotiations, fact-findings, dispositions and post conviction relief. Project goals include:

- Making resources readily available to practitioners statewide that can be adopted as part of a regular, ongoing resource for juvenile defenders,
- Introducing emerging social science and forensic research and its practical applications and relevance to juvenile defense, and
- Developing tools for experienced practitioners to effectively assist and train attorneys new to juvenile defense.

In the first two years of the project, Special Counsel surveyed over 100 juvenile defenders to determine training needs and co-sponsored over 20 CLE's, incorporating juvenile issues. These Trainings took place throughout the State, and at the WDA annual conference in Sun Mountain.

### **Opportunities for Leadership and Advocacy**

The TeamChild Special Counsel serves as a facilitator to bring together juvenile defense practitioners who are interested in playing a leadership role in enhancing juvenile defense.

Leadership activities may include:

- improving the conditions under which juvenile defenders are practicing, including reasonable caseload standards and uniform contract provisions,
- changing the statutory barriers to achieving community-based, therapeutic interventions for youth,
- shaping model practice or court policies to ensure fairness, and
- increasing the presence and effective participation of the juvenile defense community in system reform discussions at the local, state and national level.

Defenders have joined together to form work groups addressing several court practices to improve outcomes for youth: shackling, alternative dispositions, immunity for evaluations

### **Technical Assistance and Case Support**

The TeamChild Special Counsel provides support and technical assistance for juvenile defenders and facilitates connections between experienced defense attorneys to assist in mentorship of newer juvenile defenders and staffing of case specific issues. Special Counsel has fielded hundreds of inquiries for referrals and technical assistance.

For more information, contact George Yeannakis  
[george.yeannakis@teamchild.org](mailto:george.yeannakis@teamchild.org) (206) 322-2444 x 107.

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**SUPERIOR COURT OF WASHINGTON  
COUNTY OF \_\_\_\_\_  
JUVENILE COURT**

STATE OF WASHINGTON v.

Respondent.

D.O.B.:

NO:

**WAIVER OF  
RIGHT TO COUNSEL**

1. My true name is: \_\_\_\_\_.

I am also known as: \_\_\_\_\_.

2. My age is \_\_\_\_\_. Date of birth: \_\_\_\_\_.

3. I have completed the \_\_\_\_\_ grade in school.

4. I understand that I am accused of:

Count I, the offense of: \_\_\_\_\_.

Count II, the offense of: \_\_\_\_\_.

Count III, the offense of: \_\_\_\_\_.

Additional counts: \_\_\_\_\_.

The Standard Disposition Ranges for the offenses are as follows:

☐ Local Sanctions:

COUNT	SUPERVISION	COMMUNITY RESTITUTION	FINE	DETENTION	CVC	RESTITUTION
<input type="checkbox"/> 1	0 to 12 months	0 to 150 hours	\$0 to \$500	0 to 30 Days	\$75/\$100	<input type="checkbox"/> As required <input type="checkbox"/> _____
<input type="checkbox"/> 2	0 to 12 months	0 to 150 hours	\$0 to \$500	0 to 30 Days	\$75/\$100	<input type="checkbox"/> As required <input type="checkbox"/> _____
<input type="checkbox"/> 3	0 to 12 months	0 to 150 hours	\$0 to \$500	0 to 30 Days	\$75/\$100	<input type="checkbox"/> As required <input type="checkbox"/> _____

☐ Juvenile Rehabilitation Administration (JRA) Commitment:

COUNT	WEEKS AT JUVENILE REHABILITATION ADMINISTRATION (JRA) FACILITY	CVC	RESTITUTION
<input type="checkbox"/> 1	<input type="checkbox"/> 15 to 36 <input type="checkbox"/> 30 to 40 <input type="checkbox"/> 52 to 65 <input type="checkbox"/> 80 to 100 <input type="checkbox"/> 103 to 129 <input type="checkbox"/> 180 to Age 21	\$75/\$100	<input type="checkbox"/> As required <input type="checkbox"/> _____
<input type="checkbox"/> 2	<input type="checkbox"/> 15 to 36 <input type="checkbox"/> 30 to 40 <input type="checkbox"/> 52 to 65 <input type="checkbox"/> 80 to 100 <input type="checkbox"/> 103 to 129 <input type="checkbox"/> 180 to Age 21	\$75/\$100	<input type="checkbox"/> As required <input type="checkbox"/> _____
<input type="checkbox"/> 3	<input type="checkbox"/> 15 to 36 <input type="checkbox"/> 30 to 40 <input type="checkbox"/> 52 to 65 <input type="checkbox"/> 80 to 100 <input type="checkbox"/> 103 to 129 <input type="checkbox"/> 180 to Age 21	\$75/\$100	<input type="checkbox"/> As required <input type="checkbox"/> _____

**RULE JuCR 7.15**  
**WAIVER OF RIGHT TO COUNSEL**

- (a) A juvenile who is entitled to representation of counsel in a juvenile court proceeding may waive his or her right to counsel in the proceeding only after:
- (1) the juvenile has been advised regarding the right to counsel by a lawyer who has been appointed by the court or retained;
  - (2) a written waiver in the form prescribed in section (c), signed by both the juvenile and the juvenile's lawyer, is filed with the court; and
  - (3) a hearing is held on the record where the advising lawyer appears and the court, after engaging the juvenile in a colloquy, finds the waiver was knowingly, intelligently, and voluntarily made and not unduly influenced by the interests of others, including the parent(s) or guardian(s) of the juvenile.
- (b) This rule does not apply to diversion proceedings. See JuCR 6.2 and 6.3
- (c) Before a waiver can be accepted by the court, an attorney or the juvenile shall file a written waiver of the right to counsel in substantially the following form:

(Adopted effective September 1, 2008.)

The maximum possible punishment that can be imposed by Juvenile Court is \_\_\_\_\_ years or commitment to JRA to age 21, whichever is less. I also understand that there may be lasting consequences even after I turn eighteen, if I am found guilty, including: employment disqualification, loss of my right to possess a firearm, suspension of ability to keep or obtain a driver's license, and school notification.

5. I understand that I have the right to be represented by a lawyer. If I cannot afford to pay for a lawyer, the court will appoint one to represent me at no cost to me
6. I understand that an attorney would:
  - Represent me and speak on my behalf in court.
  - Advise me about my legal rights and options.
  - Explain and assist me with legal and court procedures.
  - Investigate and explore possible defenses that I may not know about.
  - Prepare and conduct my defense at any court hearing or trial.
7. I understand that if I represent myself:
  - The judge cannot be my attorney and cannot give me any legal advice.
  - The prosecuting attorney cannot be my attorney and cannot give me any legal advice.
  - The judge, prosecuting attorney and court personnel are not required to explain court procedures or the law.
  - I will be required to follow all legal rules and procedures, including the rules of evidence.
  - It may be difficult for me to do as good a job as an attorney.
  - If I represent myself, the judge is not required to provide me with an attorney as a legal advisor or standby counsel.
  - If I later change my mind and decide that I want an attorney to represent me, the judge may require me to continue to represent myself without a lawyer.
8. I am making this decision to represent myself knowingly, intelligently, and voluntarily. No one has made any promises or threats to me, and no one has used any influence, pressure or force of any kind to get me to waive my right to an attorney.
- 9.. I have read, or have had read to me, this entire document. I want to give up my right to an attorney. I want to represent myself in this case.

Dated: \_\_\_\_\_  
RESPONDENT

\_\_\_\_\_  
ATTORNEY FOR RESPONDENT

\_\_\_\_\_  
Type or Print Name/Bar Number

COURT'S CERTIFICATE

After engaging the respondent in a colloquy in open court, I find that the respondent has knowingly, intelligently, and voluntarily waived his or her right to counsel.

\_\_\_\_\_  
COMMISSIONER/PRO TEM

DATED: \_\_\_\_\_

JUDGE /COURT

# GR 9 COVER SHEET

## Suggested Amendment JUVENILE COURT RULES

### New Rule JuCR 7.15 – Waiver of Right to Counsel

Submitted by the Washington State Bar Association

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#### (A) Identity of Proponents

The Washington State Bar Association  
2101 Fourth Avenue – Suite 400  
Seattle, WA 98121-2330  
Staff Contact: Douglass Ende, Assistant General Counsel  
(206) 733-5917

#### (B) Spokespersons

##### **For the Washington State Bar Association:**

*Jon Ostlund*, Chair, Committee on Public Defense  
*George Yeannakis*, Chair, Sub-committee on Juvenile Representation  
*David D. Swartling*, Chair, Court Rules and Procedures Committee

#### (C) Purpose

Suggested new Juvenile Court Rule 7.15 is intended to establish a uniform process by which juveniles may waive their constitutional and statutory rights to be represented by counsel in all juvenile offense proceedings. The suggested rule addresses the significant problem of juveniles appearing in court without representation by counsel. This practice was criticized by the *Washington State Assessment of Access to Counsel and Quality of Representation in Juvenile Offender Matters* (American Bar Association Juvenile Justice Center, National Juvenile Defender Center, Northwest Juvenile Defender Center, 2003) and resulted in one of the core recommendations of this national report: "Washington law should be changed to conform to national standards prohibiting children from waiving the right to counsel." While the suggested rule does not go so far as prohibiting all waiver of counsel in juvenile proceedings as

several state legislatures and courts have done<sup>1</sup>, it would set forth minimum protections to ensure that all children brought before juvenile courts in Washington understand the serious consequences that can flow from proceeding in juvenile court matters without the assistance of counsel.

RCW 13.40.140(2)<sup>2</sup> and JuCR 9.2(d) provide that juveniles must have access to counsel in juvenile court offense proceedings unless it is waived. These provisions codify the U.S. Supreme Court's landmark ruling in *In re Gault*, 387 U.S. 1 (1967), holding that the "juvenile needs the assistance of counsel to cope with problems of law, to make skilled inquiry into the facts, to insist upon regularity of the proceedings, and to ascertain whether he has a defense and to prepare and submit it." Today, the protections guaranteed by *Gault* are even more critical since juvenile convictions result in criminal history which is easily accessible to the public even after the youth reaches adulthood and can be used against the juvenile in any future adult criminal proceeding. Young people in juvenile court face not only incarceration, legal financial obligations and community supervision – they face collateral consequences such as loss of employment, housing and educational opportunities which can impact them for the rest of their lives.

Although there is a criminal court rule which sets forth the procedure for waiver of counsel prior to an adult criminal arraignment, CrR 4.1(d), and there is a juvenile court rule establishes the requirements for accepting a waiver of counsel in a juvenile diversion matter, JuCR 6.3 there is currently no court rule which establishes a standard procedure for accepting a waiver of counsel in a

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<sup>1</sup> See Iowa Code Ann. § 232.11 (2); Illinois, 705 ILCS 405/5-170; Texas Family Code Ann. § 51.10(b) (1996)

<sup>2</sup> RCW 13.40.140(1-2)

(1) A juvenile shall be advised of his or her rights when appearing before the court.

(2) A juvenile and his or her parent, guardian, or custodian shall be advised by the court or its representative that the juvenile has a right to be represented by counsel at all critical stages of the proceedings. Unless waived, counsel shall be provided to a juvenile who is financially unable to obtain counsel without causing substantial hardship to himself or herself or the juvenile's family, in any proceeding where the juvenile may be subject to transfer for criminal prosecution, or in any proceeding where the juvenile may be in danger of confinement. The ability to pay part of the cost of counsel does not preclude assignment. In no case may a juvenile be deprived of counsel because of a parent, guardian, or custodian refusing to pay therefor. The juvenile shall be fully advised of his or her right to an attorney and of the relevant services an attorney can provide.



juvenile offender matter. As a result of this lack of uniform procedure, courts around Washington state can and do allow children to proceed to a finding of guilt without assistance of counsel, sometimes as early as the first appearance hearing. This can happen with minimal inquiry into the young person's ability to understand the significant ramifications of the decision to proceed *pro se*. While this practice might appear expedient to some courts and even to some parents, such expedience comes at a tremendous cost to juveniles and to the public's confidence in the fairness of the juvenile justice system.

Suggested JuCR 3.15 provides for a standard procedure for the court to determine whether a juvenile is knowingly and voluntarily waiving his or her right to counsel. While it does not go so far as some national standards which recommend prohibition of waiver of counsel for juveniles, the rule takes a balanced approach consistent with the recommendations of the National Council of Juvenile and Family Court Judges and the American Bar Association ("waiver of counsel should only be accepted after the youth has consulted with an attorney about the decision and continues to desire to waive the right," National Council of Juvenile and Family Court Judges (NCJDCJ), *Juvenile Delinquency Guidelines: Improving Court Practice in Juvenile Delinquency Cases* (2005) at 25.)

The suggested rule sets forth a straightforward procedure for the court to determine, on the record, whether a young person understands the right to representation by counsel and the consequences of waiving that right. Young people in juvenile court are often encountering the legal system for the first time and are unaware of the gravity of their decisions. The suggested rule requires that the juvenile consult with an attorney prior to making the significant decision to forego counsel in order to ensure that the juvenile understands the role of the attorney and the consequences of the decision to proceed without an attorney's assistance. This suggested procedure is not unduly cumbersome but provides a meaningful safeguard to ensure that every child in Washington State has equal access to justice in the juvenile court system.

**(D) Hearing**

A hearing is not requested.

**(E) Expedited Consideration**

Expedited consideration is not requested.

**(F) Supporting Information**

1. *Washington State Assessment of Access to Counsel and Quality of Representation in Juvenile Offender Matters* (American Bar Association Juvenile Justice Center, National Juvenile Defender Center, Northwest Juvenile Defender Center, 2003). <http://www.wsba.org/jjstudy.pdf>

2. Youth in the Criminal Justice System: AN ABA Task Force Report (2002). <http://www.abanet.org/crimjust/juvjus/jjpolicies/YCJSReport.pdf>

3. Letter from WSBA Committee on Public Defense (June, 2006)

4. Charter for Committee on Public Defense (2006)

<http://www.wsba.org/lawyers/groups/committeonpublicdefense.htm>

### III. The Grant County Juvenile Court Pilot

In Grant County, OPD contracted with private attorneys to provide representation in the juvenile offender and BECCA<sup>6</sup> cases. Funds from the OPD were allocated in several ways:

- Funding one-half of the salary of two full-time contract attorneys.
- Contracting for the services of one part-time social worker and one part-time office assistant.
- Attorney mentoring and staff development services. OPD Pilot managers initially observed less experienced attorneys in court, provided feedback and, on an ongoing basis, made themselves available for case consultation. OPD also conducted formal training sessions that were made available to all Pilot defense attorneys.

#### Pilot Results

**1. Improved and Expanded Representation.** Many of the changes evident in the adult courts were evident in the juvenile Pilot site as well. Legal representation was improved for juveniles in Grant County in the following ways.

- ***Representation at arraignment and first appearance calendars.*** Interview data confirmed that the common practice of holding a first appearance/arraignment without providing access to a public defender ended during the first months of the Pilot. Pleas without the benefit of counsel were accepted practice prior to the Pilot, with almost one-fifth (20 percent) of all charges resolved by the court accepting guilty pleas without counsel for the respondent. The practice of scheduling first appearance/arraignments for out-of-custody respondents prior to appointment of counsel was eliminated in February 2006. The presence of defense attorneys at arraignment was seen as a positive development for several reasons. First, most interviewees concurred that providing access to a defense attorney early on ensured that the constitutional rights of the accused were preserved. Second, many felt that having an attorney present at all arraignment calendars was important in that it prevented the appearance of unfairness and increased respondents' confidence in the court as an institution. Third, the presence of public defenders at arraignment had a positive impact on one or more aspects of the larger court system and/or on case processing.
- ***Improved communications with clients.*** Interview data showed that communication between attorneys and clients improved substantially. Contrary to the pre-Pilot situation, attorneys were available for face-to-face meetings with clients and by telephone. In addition, clients were contacted prior to arraignment to remind them of upcoming proceedings. A number of interviewees felt that this practice reduced the number of failure to appear warrants during the Pilot. Also, attorneys visited clients in custody prior to all court hearings.
- ***Improved motions.*** Much like the two adult sites, interviewees noted improvements in the motions submitted by defense attorneys in Grant County Juvenile Court.
- ***Reduction in case filings.*** The assertion of constitutional rights by juveniles led to the adoption of more rigorous filing standards by the county prosecutor resulting in more cases being referred for diversion rather than formal court processing (see Figures 8-11)<sup>7</sup>.

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<sup>6</sup> BECCA cases are non-criminal status offenses, At-Risk Youth, Children in Need of Services and truancy contempt.

Figure 8

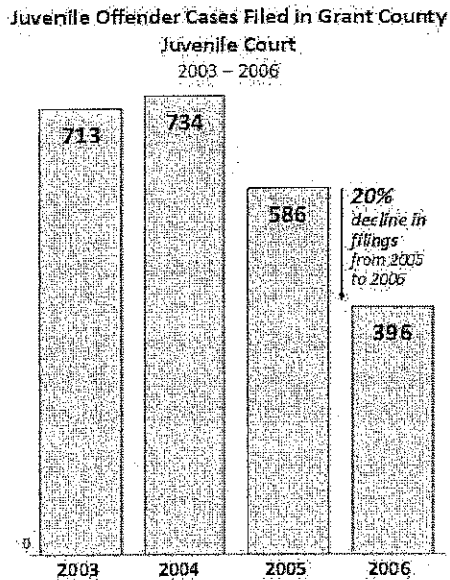
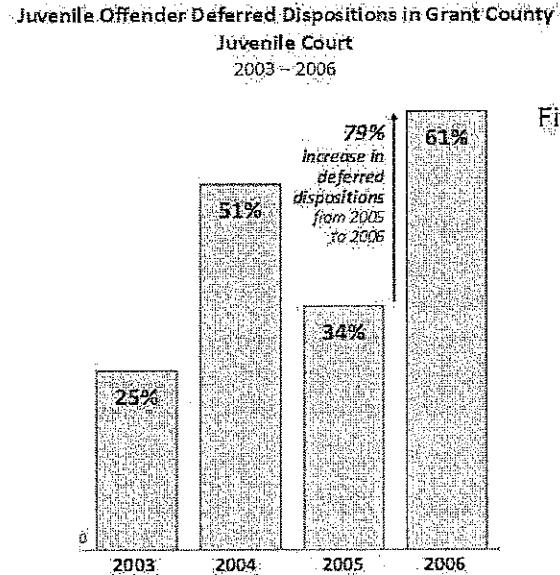


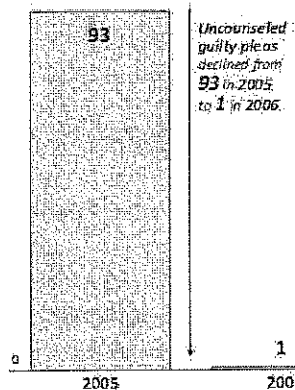
Figure 9



## 2. Improved Case Outcomes during the Pilot

### Guilty Pleas without Counsel, Grant County Juvenile Court 2005 – 2006

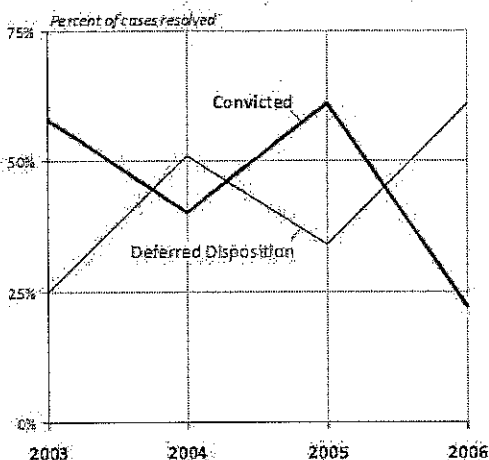
Figure 10



*A decline in guilty pleas without the Benefit of Counsel.* In 2005, the year prior to the Pilot, 93 juveniles pled guilty to charges without legal representation. That situation was nearly eliminated during the Pilot. In 2006, only one juvenile made an uncounseled guilty plea.

### Cases Resolutions in Grant County Juvenile Court 2003 – 2006 After an adjudicatory hearing

Figure 11

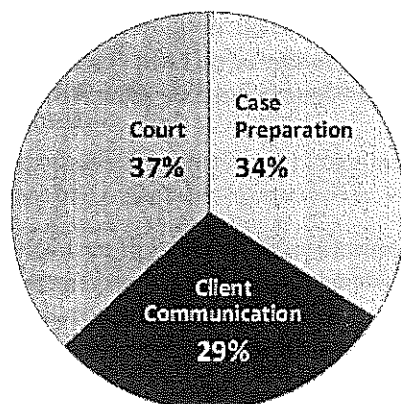


*A higher rate of deferred dispositions and a lower rate of convictions.* Over the course of the Pilot, these changes brought case outcomes in Grant County Juvenile Court more into line with outcomes in all Washington State Juvenile Courts.

<sup>5</sup> Results from the first year of the pilot are reported here. During the second year and one-half, case filings dropped significantly so that by the end of the second year the pilot attorneys' yearly caseloads were significantly lower than the 250-case standard.

3. **Caseloads During the Pilot.**<sup>8</sup> Caseload guidelines from the Washington State Bar Association recommend 250 juvenile offender cases per year per attorney. Over the course of 2006, OPD paid for 2.1 FTE attorneys who had a total caseload of 528, or 251 per attorney.

Figure 12. Percent of Time Spent on Case Activities, Grant County Juvenile Court



*How attorneys spent their time.* In 2006, Pilot attorneys allotted their time in three primary ways, time in court, communicating with clients and preparing their cases. Across all their cases, 37 percent of their time was spent in court and 34 percent was spent on case preparation. Twenty-nine percent of their time was spent communicating with their clients.

While there is no similar data before the Pilot, a common complaint was that a lack of communication and case preparation hindered public defense. During the Pilot, nearly two thirds of all attorney time was spent on these tasks.

Note: average attorney time spent per case = 6.8 hrs, average annual caseload = 250.

In addition to standard contract requirements setting caseload and compensation, the Pilot contracts incorporated the *Ten Core Principles for Providing Quality Delinquency Representation through Public Defense Delivery Systems*.<sup>9</sup> These principles required the Pilot attorneys to provide a more holistic representation model consistent with the research-based practices adopted by the juvenile court services throughout the State.

<sup>8</sup> SOURCE: OPD Case Disposition forms and records from the Washington State Judicial Information System (JIS). JIS records were used to identify cases where representation was provided but no OPD Disposition form was submitted.

<sup>9</sup> The *Principles* were developed through a collaborative venture between the National Juvenile Defender Center and National Legal Aid and Defender Association in 2004.

## IV. Conclusion and Recommendations

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The Public Defense Pilot Projects were successful in instituting significant changes in public defender practices and attitudes at all three Pilot sites, including reducing caseloads, extending public defender resources to arraignments, increasing the quality and quantity of client communication and improving investigation, case analysis and motion work. Both “old” and “new” attorneys (that is, those brought in to the sites through Pilot resources) embraced these changes.

### Challenges in Introducing New Support Services

The one area of practice that was less consistently implemented was utilization of new support staff resources (investigator, social worker and paralegal). While use of these support services substantially increased in the first months of their availability, they were unevenly utilized both within and across sites. Interview data suggests that many factors could be affecting utilization, including the skills of the support staff (or lack thereof), as well as attitudes, knowledge and experiences of the attorney. Site supervisors also may need to provide additional structure or guidance in the use of investigators and social workers. Finally, individual attorneys and public defender offices as a whole may require more time to integrate additional staff resources into their practice, particularly after adapting so many other changes in office practice in a relatively short period of time.

## TECHNICAL NOTES

### Data Sources and Methods

**Interviews.** Three layers of interviews were conducted: First, background interviews with OPD management staff were conducted during the summer of 2006. These semi-structured in-person and telephone interviews were used to develop background context and identify potential program issues, strengths and accomplishments. Second, the evaluator interviewed Pilot site staff and other key stakeholders at each of the three sites. OPD staff assisted the evaluator in identifying and contacting all public defender attorneys/staff, prosecutors, judicial officers, and administrative court staff who might be influenced by or have observations of the Pilot. During the period September through October 2006 the evaluator visited all three sites and conducted pre-scheduled, in-person interviews. Individuals who were not available for an in-person interview participated in a telephone interview. All interviews used a semi-structured format, which encouraged interviewees to respond in narrative form to open-ended questions. Most interviews ranged between 45 and 65 minutes. A third layer of interviews consisted of follow-up questions for OPD management staff to clarify and fill in information gaps. On average, five interviews were conducted at each site.

**Document Review.** In addition to interviews, the evaluator gathered and reviewed a range of documents pertaining to the Pilot Projects. Documents included:

- Pilot contract materials
- Newspaper articles related to general public defense issues and site specific issues prior to the Pilot Projects
- Data collection forms developed by OPD
- Examples of data summaries and data output used at each of the sites
- OPD website
- Washington State Bar Association standards for public defense
- Legislation authorizing the Public Defense Pilot Projects
- New indigency screening form (Thurston County District Court)

**Electronic Court Data.** Electronic records from four sources were used in this evaluation.

1. Case disposition forms, completed by public defenders at each Pilot site, containing information on case characteristics and time spent on various tasks. Data was initially collected on paper forms and later entered into an Access database by OPD staff.
2. Records from the Washington State Administrative Office of the Courts (AOC) for each case filed in the adult courts. These records included information on charges filed, filing and disposition dates and the identity of the defense attorney.
3. Case assignment records from Bellingham Assigned Counsel, the contracted provider of public defense for the Bellingham Municipal Court. These records detailed the public defender assigned to the case along with assignment dates. These data were used for determining caseloads in that court.
4. AOC Caseload Reports: published annually by the AOC containing aggregate data for each court in the state with information on cases filed, hearings held and dispositions.





# Washington Juvenile Defender Leadership Network

Realizing Justice for Youth

## SPECIAL POINTS OF INTEREST

- Automatically light your point of interest here.
- Automatically light your point of interest here.
- Automatically light your point of interest here.
- Automatically light your point of interest here.

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VOLUME 1, ISSUE 4

DECEMBER 2011

## Automatic Adult Court Jurisdiction (AACJ)

Legislation proposing to repeal the auto decline provisions of RCW 13.04.030 will be reintroduced this year by Representative Mary Lou Dickerson. Gavin Thornton of the Institutions Project of Columbia Legal Services is working closely with legislative staff to coordinate the Automatic Adult Court Jurisdiction workgroup support for this legislation.

Many of you have been contacted by investigative reporters to share stories about your former clients who have been swept into the adult justice system without the benefit of judicial review. These stories will be used to demonstrate the adverse or unintended consequences caused by the auto decline provisions.

Columbia Legal Services published a monograph in 2009 called A Reexamination of Youth Involvement in the Adult Criminal Justice



System in Washington, to first bring attention to the flawed practice of allowing a prosecutor rather than a judge determine whether a youth should be tried and sentenced as an adult. The article points out the difficulty of even determining

the extent of the use of the practice in Washington. Gavin has also collected state and national research studies that dispel the myths put forth by prosecutors as to the effectiveness of this practice.

These studies along with the adolescent development research spearheaded by the MacArthur Foundation, and adopted by the Supreme Court in Roper, Graham and most recently in JDB will provide strong support to repeal the auto decline provisions in Washington State.

### Next AACJ Meeting:

## Consequences of Adjudication

The COA workgroup has focused on addressing the deficiencies in the record sealing process in Washington. The legislature recognized last session that the record sealing provisions of the juvenile code were not adequately protecting former offenders and

non-offenders from harmful and unintended consequences of their juvenile record. To address this problem the Legislature established a Joint Legislative Committee to find a cost effective way to automatically seal juvenile re-

ords. In addition to six legislators, the 20 member committee was composed of individuals representing the judges, prosecutors, juvenile courts, county clerks, and our defense representatives, Katie Hufley (Juvenile Law Section

## Consequences of Adjudication (cont'd)



ACT AS IF WHAT YOU DO MAKES A  
DIFFERENCE.

IT DOES

**Ensuring  
Excellence in  
Juvenile  
Defense and  
Promoting  
Justice for All  
Children**

ACT AS IF WHAT YOU DO  
MAKES A DIFFERENCE



IT DOES

**LAURIE MAGAN**

**Chair, WJDLC**

of the WSBA) and Kim Ambrose (Washington Defender Association). Four meetings were held in Olympia throughout the summer and fall that allowed public input on the issue. Despite overwhelming criticism of sealing any court record, the committee determined that the only way to accomplish the goal of truly sealing a juvenile's record was to make all

juvenile records confidential. Confidential records could not be sold, published on the internet or otherwise publicly distributed by the court or any other state agency that keeps juvenile records. Currently there are several other types of court records that are confidential and not distributed including: dependency, adoption and mental illness proceedings.

The final report of the committee is due by December 15. Although the final report proposing to make juvenile records confidential has not been adopted by the committee, we are hopeful that the Committee will forward the recommendation to make juvenile records confidential to the legislature.

## National Juvenile Defender Leadership Summit

Seattle played host to this year's National Juvenile Defender Leadership Summit. Over four hundred juvenile defenders from around the country filled the conference rooms of the Sheraton hotel. 50 Washington Defenders from around the state participated in the training and workshops sponsored by the National Juvenile Defender Center in Washington D.C.

The Western Juvenile Defender Center opened up the

conference with a training on "Obtaining and Using Psychological Evaluations".

In the three days of the conference there were 40 different break out sessions, 6 plenary sessions and every region center had the opportunity to meet.

On Friday Robin Steinberg from the Bronx Defenders keynote speech addressed the "Transformative Role of the Public Defender" and set the tone for the rest of the conference.

J.D.B. Roper and Graham were highlighted. Attorney's received practice tips in light of these Supreme Court rulings.

Michelle LaVigne gave an information packed presentation on "The prevalence and Impact of Language Impairment in Juvenile Court". Her presentation is timely in that it reinforces the work that members of the WJDLC have been engaged in with the Judicial Colloquies in Washington state.

## Gang Update

The ACLU continues to convene Washington State stakeholders meetings to discuss the various approaches to the "gang problem and to coordinate efforts and resources to address the issues of gangs around the state.

The last meeting took place on

November 15th, 2011 at the ACLU office in Seattle. More than 20 stakeholders came to the table and strategized ways to approach gang intervention with lawmakers and community members.

# Shackling



This story can fit 150-200 words.

One benefit of using your newsletter as a promotional tool is that you can reuse content from other marketing materials, such as press releases, market studies, and re-

ports.

While your main goal of distributing a newsletter might be to sell your product or service, the key to a successful newsletter is making it useful to your readers.

A great way to add useful content to your newsletter is to develop and write your own articles, or include a calendar of upcoming events or a special offer that promotes a new product.

You can also research articles or find "filler" articles by accessing the

World Wide Web. You can write about a variety of topics but try to keep your articles short.

Much of the content you put in your newsletter can also be used for your Web site. Microsoft Publisher offers a simple way to convert your newsletter to a Web publication. So, when you're finished writing your newsletter, convert it to a Web site and post it.

*"To catch the reader's attention, place an interesting sentence or quote from the story here."*

## Standards for Representation

This story can fit 100-150 words.

The subject matter that appears in newsletters is virtually endless. You can include stories that focus on current technologies or innovations in your field.

You may also want to note business or economic trends, or make predictions for your customers or clients.

If the newsletter is distributed internally, you might comment upon new procedures or improvements to the business. Sales figures or earnings will show how your business is growing.

Some newsletters include a column that is updated every issue, for instance, an advice column, a book review, a letter from the president, or an editorial. You can also profile

new employees or top customers or vendors.

## Standards cntn'd



**Caption describing picture or graphic.**



## What is the Washington Juvenile Defender Leadership Network

Washington juvenile defenders are leaders in addressing systemic problems that effect youthful offenders. These leaders are promoting positive policy changes for youth involved in the juvenile justice system. The Washington Juvenile Defender Leadership Network (WJDLN) grew out of the *Washington State Juvenile Defense Leadership Summit* that was held in October, 2010 in Leavenworth, WA. The Summit brought together thirty juvenile defense attorneys from around the state to identify the most pressing needs and issues effecting youth in the juvenile justice system and the provision of defense services to those youth. The summit energized a strong network of defenders who have come together to advance defense-initiated solutions to systemic problems in the juvenile justice system. Juvenile defenders have organized workgroups and are taking measures to realize justice for juveniles in Washington State. By working together in the leadership network we believe that we can start to break down legal and systemic barriers that often hinder positive outcomes for youth in Washington.

**Nobody Can do Everything  
But Everybody Can Do  
Something**



**Do you want to help realize justice for juveniles?**

**CONTACT US:**

rosa.peralta@teamchild.org

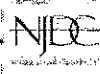
Phone: 206-322-2444

Fax: 206-381-1742

Website: [www.teamchild.org](http://www.teamchild.org)

This work is in part supported and inspire by:

**Models for Change**  
Systems Reform in Juvenile Justice



# WASHINGTON

## An Assessment of the Right to Counsel and Quality of Representation in Juvenile Offender Matters

### Statutory Right to Counsel

- Washington law grants juveniles the right to be represented by counsel at all "critical stages" of juvenile court proceedings regardless of juveniles' or their families' financial ability to secure an attorney
- The law states that counsel must be provided "in any proceeding where the juvenile may be subject to transfer for criminal prosecution or in any proceeding where the juvenile may be in danger of confinement" (RCW 13.40.140)

### Structure of Juvenile Indigent Defense System

- Counties fund public defense systems and independently choose their methods of providing counsel for indigent defendants
- Methods of appointment include: county-based public defenders, non-profit corporations, individual private defenders/private firms, and appointed attorneys (assigned counsel panels)

### Key Findings

#### *The Attorney/Client Relationship*

- There is confusion and disagreement about the role of juvenile defenders. As a result, important opportunities to effectively counsel and represent the interests of the child are lost
- Defenders often do not have the time or training to effectively ensure that their juvenile clients understand or are informed about their cases

#### *Participation of Counsel in Juvenile Court Proceedings*

- In direct conflict with national standards, Washington law permits children to waive their right to counsel
- In some Washington counties, juveniles regularly proceed without the assistance of counsel in important hearings

#### *Inadequate Assistance of Counsel*

- Defenders often do not meet with juveniles before their first appearance at court, so they miss important opportunities to advocate for their clients
- Although in some counties defenders are perceived by judges and others as well-prepared for court, in many counties motions and trials are rarely brought, independent investigation of cases is rare and only takes place in more serious cases, and defenders are not fully prepared for sentencing (disposition) hearings
- Defense counsel assume no post-sentencing role, losing the chance to help clients with whom they have built relationships obtain treatment or other services that would address the root causes of the criminal behavior

#### *Caseloads and Assignment*

- Defenders working full-time reported an average of close to 400 cases annually, roughly 62% more cases than the standards endorsed by the Washington State Bar Association
- Juvenile justice professionals across the spectrum consistently perceive defense attorneys as "overwhelmed" by their caseloads
- Because caseloads are too big, many defenders are unable to spend sufficient time with their clients and are not properly prepared for court

#### *Insufficient standards and oversight for defenders*

- Most counties provide juvenile defenders with little or no training on court procedure or in dealing with troubled youth
- Many counties have no qualification standards for juvenile defenders, no system of personnel review, and no supervision of legal work performed by defenders

#### *The Juvenile System as a Dumping Ground*

- Children with mental health problems, learning disabilities, behavioral problems and addiction issues are not getting the help they need in their communities, so they often end up in the juvenile court system
- Juveniles with mental health problems often receive punishment instead of treatment; a February 2003 study found that 58% of youth incarcerated in Washington's juvenile facilities met the criteria for having a "serious mental health disorder"

#### *Racial Disproportionality*

- Minorities are overrepresented in juvenile court offense referrals and incarceration at both the local and state levels; further study should be undertaken on what role defenders can play in reducing disproportionality

